

K5TVTAGC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

19 CR 472 (PAC)

5 SALVATORE TAGLIAFERRO,
6 JOHN DeFALCO,

7 Defendants.

REMOTE TELECONFERENCE

-----x

8 New York, N.Y.
9 May 29, 2020
10 2:30 p.m.

11 Before:

12 HON. PAUL A. CROTTY,

13 District Judge

14 APPEARANCES

15
16 GEOFFREY S. BERMAN,
17 United States Attorney for the
18 Southern District of New York
19 JARROD L. SCHAEFFER
20 THOMAS McKAY
21 Assistant United States Attorneys

22 MICHAEL K. BACHRACH
23 RICHARD H. ROSENBERG
24 Attorneys for Defendant Tagliaferro

25 JEFFREY H. LICHTMAN (Incoming attorney)
JEFFREY B. EINHORN (Incoming attorney)
ROBERT G. STAHL (Outgoing attorney)
Attorneys for Defendant DeFalco

K5TVTAGC

1 (Remote teleconference)

2 (Case called)

3 MR. SCHAEFFER: Jarrod Schaeffer and Thomas McKay, for
4 the government. Good afternoon, your Honor.

5 THE COURT: Good afternoon, Mr. Schaeffer and
6 Mr. McKay.

7 MR. LICHTMAN: Jeffrey Lichtman and Jeffrey Einhorn
8 for John DeFalco. Good afternoon, your Honor.

9 MR. STAHL: Robert Stahl, on behalf of John DeFalco as
10 well. Good afternoon, your Honor.

11 THE COURT: Good afternoon, Mr. Stahl.

12 MR. ROSENBERG: Good afternoon, your Honor.

13 Richard Rosenberg and Michael Bachrach, for Salvatore
14 Tagliaferro, who's on the line.

15 THE COURT: Good afternoon.

16 Let's take up the substitution of counsel first.

17 Who wants to be relieved?

18 MR. STAHL: That is myself, your Honor, Robert Stahl.

19 THE COURT: And who's the successor attorney,
20 Mr. Stahl?

21 MR. STAHL: That would be Jeffrey Lichtman and
22 Mr. Einhorn.

23 THE COURT: I'm signing the papers; so you are
24 relieved. Who's replacing him?

25 MR. LICHTMAN: It's Lichtman and Einhorn.

K5TVTAGC

1 THE COURT: Lichtman and -- Mr. Lichtman, Mr. Einhorn.
2 All right.

3 MR. STAHL: Thank you, your Honor.

4 This is Robert Stahl speaking.

5 THE COURT: Mr. Einhorn, you'll file your notice of
6 appearance, if you haven't already done so.

7 MR. EINHORN: We did, your Honor. Thank you.

8 This is Mr. Einhorn.

9 THE COURT: Okay. Thank you.

10 And there's no problem with the transition?

11 MR. EINHORN: None.

12 THE COURT: Okay.

13 All right. Mr. Schaeffer, Mr. McKay, do you want to
14 bring me up to date on the case?

15 MR. SCHAEFFER: Of course, your Honor.

16 This is Jarrod Schaeffer.

17 As of now, we had this status conference instead of
18 the original scheduled trial date, in light of the COVID-19
19 pandemic. Currently, Rule 16 discovery has been produced for
20 several months. All parties are bound by a protective order
21 which we understand to apply to successor counsel as well.
22 We've discussed with both prior counsel and current counsel now
23 for Mr. DeFalco the transfer of discovery. We understand that
24 that has gone smoothly and has gone from one counsel to the
25 other. Of course, if there are any other questions, we are

K5TVTAGC

1 happy to discuss that with Mr. Lichtman and Mr. Einhorn.

2 Going forward, the government has anticipated
3 producing 3500 and *Giglio* material, as stated previously,
4 approximately two weeks prior to trial. We defer, I think, to
5 new counsel for Mr. DeFalco for how much time they need to get
6 up to speed on the discovery. But our tentative proposal, your
7 Honor, would be that we schedule a status conference again 30
8 to 45 days from today; and then at that point, we would set a
9 trial date likely for the late fall, depending on when jury
10 trials are set to commence within the district.

11 THE COURT: What's your understanding of when jury
12 trials are scheduled to commence -- recommence?

13 MR. SCHAEFFER: We're not sure at this time, your
14 Honor. I think that Chief Judge McMahon's order indicates that
15 they are suspended indefinitely for the current period. My
16 estimation of late fall is to give us a date that we can work
17 toward; of course we can reassess as we move toward that. But
18 obviously the situation right now is dynamic, and I think that
19 we will all be taking our cues from the health professionals.

20 THE COURT: Do the defendants have a view?

21 MR. ROSENBERG: Richard Rosenberg, on behalf of
22 Mr. Tagliaferro.

23 Well, your Honor, basically, I think the status
24 conferences call for -- I think 30 to 45 days is optimistic
25 about as far as having some clarity. And I was going to

K5TVTAGC

1 suggest maybe a September date.

2 We have subpoena outstanding that has not been -- we
3 have not been able to have compliance with as yet because of
4 the COVID situation. We have not been able to access certain
5 materials. We have an investigator that's on standby.
6 Basically, he can't, in person, interview clients.

7 So we have a number of concerns about going forward.
8 And as the government has stated, the chief judge has announced
9 that trials are suspended *sine die* as of, at least, right now.
10 And my co-counsel and I are both out of town. He will be out
11 of town come this weekend aimed to really escape a COVID
12 situation that's going on in the city. I've been upstate since
13 early March, as a matter of fact, and working remotely as best
14 as I can. But, of course, your Honor recognizes the
15 limitations of that. And they've been significant, and
16 especially in a trial of this sort, which is a significant
17 amount of discovery and the preparation that has to be done.

18 So I think a status conference -- this is a quote,
19 yes, a dynamic situation that's going on. And I think we all
20 want to proceed carefully, safely, and efficiently. And, of
21 course, you know, the virus and some of our risk factors are a
22 concern.

23 THE COURT: All right.

24 My best information is that jury trials, criminal jury
25 trials, will be reinstituted around early in September. So I'm

K5TVTAGC

1 going to opt for a 45-day -- set a conference for mid July.

2 David, if you can get a date for me.

3 MR. ROSENBERG: Your Honor, Richard Rosenberg.

4 Just I do have a trial scheduled in front of Judge
5 Preska for October 26, a two-week trial. I don't know what the
6 status of that is going to be. We can revisit that as we go
7 along.

8 THE COURT: I think that there's limited court space
9 for criminal jury trials; there's only six or seven courtrooms,
10 and they are going to be allocated pursuant to some kind of
11 waterfall distribution scheme if you set a date before X, if
12 you have one defendant, if you have two defendants, if it's a
13 complicated case, and so forth.

14 So that's what's going to take over the allocation of
15 the jury trials. Just because Judge Preska or any judge picked
16 a particular date does not mean that the trial is going to go
17 forward on that date until it's reviewed by the assignment
18 committee. So I think there's going to be more clarity around
19 this process by mid July.

20 So, David, can you give me a date in mid July. We'll
21 meet again by conference call -- I won't have to come to
22 court -- and we'll review exactly where we are at that time.

23 THE DEPUTY CLERK: Friday, July 17, at 12 noon.

24 MR. ROSENBERG: This is Richard Rosenberg.

25 I happen to be free that day, your Honor.

K5TVTAGC

1 THE COURT: Okay.

2 MR. LICHTMAN: Judge, we're free as well.

3 THE COURT: All right.

4 Can you give us the date again, David?

5 THE DEPUTY CLERK: July 17 at 12 noon.

6 MR. BACHRACH: Michael Bachrach Mr. Tagliaferro. I'm
7 available that day.

8 THE COURT: Okay. And what we'll do is it may well be
9 that we'll adjourn if we don't have any more information than
10 we have now. I'll adjourn the conference to a subsequent date.
11 But hopefully we'll have more precise information; we can do
12 better planning.

13 In the meantime, I guess people will go ahead and make
14 whatever schedules they think are appropriate. I'm not asking
15 you to block out any time; I don't think that's a prudent thing
16 to do.

17 At any rate, why don't I exclude time to mid July.

18 Mr. Schaeffer?

19 MR. SCHAEFFER: Yes, your Honor. We'd ask you to do
20 that to allow new counsel to get up to speed and to allow all
21 counsel to continue to review the discovery and prepare for
22 trial.

23 MR. ROSENBERG: On consent, your Honor.

24 MR. LICHTMAN: The same for Mr. DeFalco.

25 Jeffrey Lichtman.

K5TVTAGC

1 THE COURT: Thank you.

2 All right. The time between now and July 17th will be
3 excluded. It's in the interest of justice to do so. Those
4 interests outweigh the interests of the public and the
5 defendant in a speedy trial.

6 Anything else to take up today, gentlemen?

7 MR. ROSENBERG: Just my best wishes, your Honor --
8 Richard Rosenberg -- for everyone to stay well.

9 THE COURT: Same to you, Mr. Rosenberg, and to
10 everybody else as well.

11 MR. LICHTMAN: Thank you, Judge.

12 * * *

13

14

15

16

17

18

19

20

21

22

23

24

25